

DANA McRAE, State Bar No. 142231
County Counsel, County of Santa Cruz
JASON M. HEATH, State Bar No. 180501
Assistant County Counsel
BETSY L. ALLEN, State Bar No. 146386
Assistant County Counsel
701 Ocean Street, Room 505
Santa Cruz, California 95060
Telephone: (831) 454-2040
Fax: (831) 454-2115

Attorneys for Defendant County of Santa Cruz

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

JAMES BATES et al. acting for themselves and others similarly situated, Plaintiffs, v. COUNTY OF SANTA CRUZ, Defendant.	Case No. CV 08 0557 SC ANSWER OF DEFENDANT COUNTY OF SANTA CRUZ; DEMAND FOR JURY TRIAL
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Defendant County of Santa Cruz (“Defendant”) answers the complaint (“Complaint”) of James Bates et al (“Plaintiffs”) as follows:

1. Answering the allegations in paragraph one of the Complaint, Defendant admits that the United States District Court, Northern District of California has jurisdiction over this action. Defendant denies that this case is properly venued in San Francisco. The Northern District rules require that the case be filed in San Jose. Except as expressly admitted, Defendant denies the remaining allegations in this paragraph.

2. Answering the allegations in paragraph two of the Complaint, Defendant denies them.

1 3. Answering the allegations in paragraph three of the Complaint, Defendant admits that
2 it is a political subdivision of the State of California, however, Defendant lacks sufficient
3 information to admit or deny the remaining allegations and on that basis denies them.

4 4. Answering the allegations in paragraph four of the Complaint, Defendant lacks
5 sufficient information to admit or deny the allegations and on that basis denies them.

6 5. Answering the allegations in paragraphs five, six, seven, eight, nine, ten, eleven,
7 twelve and thirteen of the Complaint, Defendant lacks sufficient information to admit or deny the
8 allegations and on that basis denies them.

9 6. Answering the allegations in paragraph fourteen of the Complaint, Defendant lacks
10 sufficient information to admit or deny the allegations and on that basis denies them.

11 7. Answering the allegations in paragraph fifteen of the Complaint, Defendant admits
12 that it has entered into certain collective bargaining agreements, however, Defendant lacks sufficient
13 information to admit or deny the remaining allegations and on that basis denies them.

14 8. Answering the allegations in paragraphs sixteen, seventeen, eighteen, nineteen,
15 twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five and twenty-six of the
16 Complaint, Defendant denies them.

17 9. Answering the allegations in paragraph twenty-seven of the Complaint, Defendant
18 incorporates by reference paragraphs one through eight of this Answer as though set forth fully
19 herein.

20 10. Answering the allegations in paragraphs twenty-eight, twenty-nine, thirty, thirty-one,
21 thirty-two, thirty-three and thirty-four of the Complaint, Defendant denies them, except for the
22 references to the United States Code of Federal Regulations, which speak for themselves.

23 11. Answering the allegations in paragraphs thirty-five, thirty-six and thirty-seven of the
24 Complaint, Defendant lacks sufficient information to admit or deny the allegations and on that basis
25 denies them.

26 12. Answering the allegations in paragraphs thirty-eight and thirty-nine of the Complaint,
27 Defendant denies them.

1 13. Because there are no substantive charging allegations in paragraphs forty and forty-
2 one of the Complaint, Defendant neither admits nor denies them.

3 14. Answering the allegations in paragraph forty-two of the Complaint, Defendant denies
4 them.

5 **SEPARATE DEFENSES**

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7 **SEPARATE DEFENSE NO. 1:** The Complaint and each cause of action fail to allege facts
8 sufficient to constitute a cause of action.

9 **Defense No. 2:** Defendant acted at all times in good faith and did not act intentionally or
10 recklessly with respect to the compensation requirements of the Fair Labor Standards Act.

11 **Defense No. 3:** Defendant has compensated Plaintiffs as required by the applicable
12 provisions of the Fair Labor Standards Act; Plaintiffs' alleged entitlement to relief is subject to
13 defenses specific to the Act, including but not limited to the preliminary or postliminary
14 activities doctrine, de minimus doctrine, and restriction on activities compensable under contract
15 or custom.

16 **Defense No. 4:** Plaintiffs have failed to exhaust their administrative remedies.

17 **Defense No. 5:** The Complaint is barred by the doctrines of estoppel, waiver and laches.

18 **Defense No. 6:** The Complaint is barred by the lapse of the applicable period of
19 limitations.

20 **Defense No. 7:** Plaintiffs have failed to mitigate their damages.

21 **Defense No. 8:** A collective action under the provisions of 29 U.S.C. § 216 is improper
22 because Plaintiffs are not similarly situated and do not constitute a well-defined community of
23 interest in the questions of law and fact that are relevant to this action, and the claims of the
24 Plaintiffs are not typical.

25 **Defense No. 9:** Because the Complaint is written using conclusory terms, Defendant
26 cannot fully anticipate all affirmative defenses that may be applicable to this matter.
27 Accordingly, the right to assert separate affirmative defenses, if and to the extent such
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1 affirmative defenses are applicable, is hereby reserved.

2 WHEREFORE, Defendant County of Santa Cruz prays that:

- 3 1. Judgment is entered in favor of Defendant and against Plaintiffs on the Complaint
4 as a whole, and each cause of action, and that Plaintiffs take nothing by the
5 Complaint.
6 2. That the Complaint, and each cause of action, be dismissed with prejudice;
7 3. That Defendant is awarded the costs, expenses and attorneys feed incurred in this
8 action; and;
9 4. The Court awards such other relief as it considers proper.

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11 Dated: February 25, 2008

DANA McRAE, COUNTY COUNSEL

12 By: /S/
13 BETSY L. ALLEN
14 Assistant County Counsel
15 **Attorneys for Defendants**

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17 **DEMAND FOR JURY TRIAL**

18 Defendant County of Santa Cruz hereby demands a trial by jury in this case.

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20 Dated: February 25, 2008

DANA McRAE, COUNTY COUNSEL

21
22 By: /S/
23 BETSY L. ALLEN
24 Assistant County Counsel
25 **Attorneys for Defendants**